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**PATENT APPLICATION**  
Atty. Docket: 2537 (203-2755)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Finch et al. Examiner: Aaron Roane  
Serial No. : 09/739,428 Group Art Unit: 3739  
Filed : December 18, 2000 Dated: April 11, 2006  
For : **APPARATUS FOR THERMAL TREATMENT OF AN  
INTERVERTEBRAL DISC**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO HAVE MATERIAL SUBMITTED IN AN INFORMATION DISCLOSURE  
STATEMENT CONSIDERED UNDER 37 C.F.R. §1.181**

Sir:

On January 22, 2001, Applicants submitted an Information Disclosure Statement, form PTO-1449 with copies of references and a certificate of mailing. Applicants thereafter received their return postcard, having the U.S. Patent and Trademark Office stamp dated January 25, 2001, which notified them that the U.S. Patent and Trademark Office had received all of the information listed on the postcard.

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this Amendment and any document referred to as enclosed herein is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: \_\_\_\_\_  
April 11, 2006

  
\_\_\_\_\_  
Maria Lapitan

It has recently come to Applicants' attention that this material cannot be located on the PAIR system or by Examiner Aaron Roane. Further, the application has been deemed allowable by the Examiner. Therefore, under MPEP §704.14 (c), Applicants' would like to give the Examiner an opportunity to review the submitted Information Disclosure Statement and related documents for patentability purposes.

As such, Applicants' have re-submitted these materials (originally submitted on January 22, 2001), including the Information Disclosure Statement, PTO-1449 with copies of references, the certificate of mailing and a copy of the returned postcard. Additionally, Applicants' believe that they should not be required to pay a petition fee to have these items considered because the U.S. Patent and Trademark is at fault for losing the original documents. If, however, any fees are due relating to this petition and/or submission of documents, please charge Deposit Account 21-0550 accordingly.

Early and favorable consideration of the items on the attached Information Disclosure Statement is respectfully requested.

***Carter, DeLuca, Farrell & Schmidt, LLP***  
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Respectfully submitted,



Edward C. Meagher  
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Attorney for Applicants

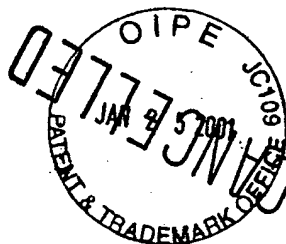


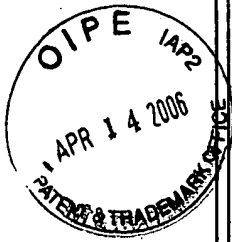
THE U.S. PATENT AND TRADEMARK OFFICE DATE STAMP WILL  
ACKNOWLEDGE RECEIPT OF:

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1. INFORMATION DISCLOSURE STATEMENT IN TRIPLICATE
2. PTO-1449 WITH COPIES OF REFERENCES
3. CERTIFICATE OF MAILING

Applicant: Finch et al.  
Serial No.: 09/739,428  
Docket: 2537 (203-2755)  
Dated: January 22, 2001  
JWS:db





PATENT

Atty. Docket No. 2537 (203-2755)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):      Finch et al.                      EXAMINER:              Unassigned  
SERIAL NO.:          09/739,428                      GROUP: Art Unit      Unassigned  
FILED:                  December 18, 2000              DATED:                  January 22, 2001  
FOR:                      APPARATUS FOR THERMAL  
                                TREATMENT OF AN  
                                INTERVERTEBRAL DISC

Assistant Commissioner for Patents  
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT

Sir:

Pursuant to Applicant(s) duty of disclosure, the information listed in the attached form PTO-1449 is brought to the attention of the Examiner. Copies of the listed items are enclosed.

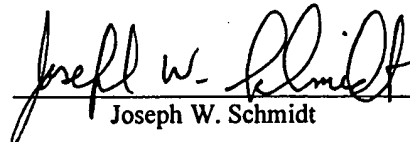
The citation of the listed items is not a representation that they constitute a complete or exhaustive listing of the relevant art or that the references are prior art.

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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on January 22, 2001.

Dated: January 22, 2001

  
\_\_\_\_\_  
Joseph W. Schmidt

The items listed are submitted in good faith, but are not intended to substitute for the Examiner's search. It is hoped, however, that in addition to apprising the Examiner of these particular items, they will assist in identifying fields of search and in making as full and complete a search as possible.

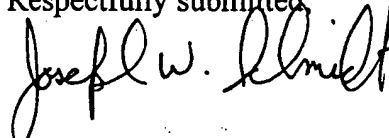
The filing of this information disclosure statement is not an admission that the information cited herein is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

- ☒ This information disclosure statement is being filed within three (3) months of the filing date of this application.
- ☐ This information disclosure statement is being filed within three (3) months of the date of entry of the national stage as set forth in 37 C.F.R. §1.491 in an international application.
- ☒ To the best of Applicant(s) knowledge, this information disclosure statement is being filed before the date of mailing of a first Office Action on the merits in connection with this case.
- ☐ Enclosed herewith is a certificate under 37 C.F.R. §1.97(e).
- ☐ Enclosed herewith is a petition under 37 C.F.R. §1.97(d)(ii).
- ☐ Enclosed by check is the petition fee of \$130.00. 37 C.F.R. §1.17(i)(1))
- ☐ Please charge the \$130.00 petition fee to Deposit Account No. 04-1121.

- ☐ Enclosed by check is the \$180.00 fee required by 37 C.F.R. §1.17(p).
- ☐ Please charge the \$180.00 fee required by 37 C.F.R. §1.17(p) to Deposit Account No. 04-1121.
- ☒ Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. §1.16 and/or §1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account 04-1121. Also, in the event any extensions of time for responding and/or a petition under 37 C.F.R. §1.17(i)(i) are required for the pending application(s), please treat this paper as a petition to extend the time and/or enter this Information Disclosure Statement as required and charge Deposit Account No. 04-1121 therefor. TWO (2) COPIES OF THIS SHEET ARE ENCLOSED.

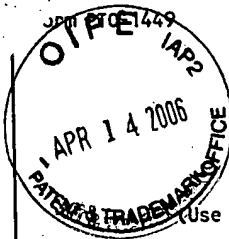
The claims of the application as now presented are believed to patentably distinguish over the prior art and to be in condition for allowance. Early and favorable consideration of the case is respectfully requested.

Respectfully submitted,



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Attorney for Applicant(s)

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U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

ATTY. DOCKET NO.  
2537 (203-2755)

SERIAL NO.  
09/739,428

INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT

(Use several sheets if necessary)

APPLICANTS  
Finch et al.

FILING DATE  
December 18, 2000

GROUP ART UNIT  
Unknown

### U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	4,411,266	10/25/83	Cosman			
	4,565,200	1/21/86	Cosman			
	4,907,589	3/13/90	Cosman			
	4,966,597	10/30/90	Cosman			
	5,122,137	6/16/92	Lennox			
	5,315,996	5/31/94	Lundquist			
	5,334,145	8/2/94	Lundquist et al.			
	5,433,739	7/18/95	Sluijter et al.			
	5,437,288	8/1/95	Schwartz et al.			
	5,477,856	12/26/95	Lundquist			
	5,497,785	3/12/96	Viera			
	5,545,193	8/13/96	Fleischman et al.			

### FOREIGN PATENT DOCUMENTS

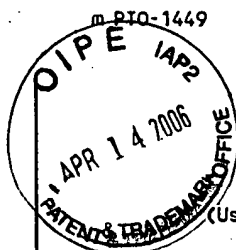
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
	EP 0 521 595 B1	2/17/92	EPO				
	WO 93/04722	3/18/93	PCT				

### OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER

DATE CONSIDERED

\* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,571,147	11/5/96	Sluijter et al.			
	5,573,520	11/12/96	Schwartz et al.			
	5,728,149	3/17/98	Laske et al.			
	5,833,632	11/10/98	Jacobsen et al.			
	5,871,523	2/16/99	Fleischman et al.			
	5,951,546	9/14/99	Lorentzen			
	5,980,504	11/9/99	Sharkey et al.			
	5,983,141	11/9/99	Sluijter et al.			
	6,001,093	12/14/99	Swanson et al.			
	6,004,279	12/21/99	Crowley et al.			
	6,007,570	12/28/99	Sharkey et al.			
	6,048,339	4/11/00	Zirps et al.			
	6,073,051	6/6/00	Sharkey et al.			
	6,095,149	8/1/00	Sharkey et al.			
	6,099,514	8/8/00	Sharkey et al.			
	6,146,380	11/14/00	Racz et al.			
	6,161,048	12/12/00	Sluijter et al.			

FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
					YES	NO

OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER

DATE CONSIDERED

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